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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,247	03/03/2004	Gary W. Eisenhower JR.	H0006209-0769	3980

7590

11/28/2005

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EXAMINER

ABOAGYE, MICHAEL

ART UNIT

PAPER NUMBER

1725

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/792,247

Applicant(s)

EISENHOWER ET AL.

Examiner

Michael Aboagye

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☒ Claim(s) 13-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/3/04 & 8/26/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: spring (194), see specification , paragraphs [0025] and [0026]. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: on page 13, line 30, change "next 608" to "nest 608".
Appropriate correction is required.

Claim Objections

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When

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claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not). Misnumbered claims 9-20 been renumbered 8-18.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Ziolkowski et al. (US Patent No. 6222151).

Ziolkowski et al. discloses a weld fixture apparatus, comprising:

a fixture (20) with a base(11) upon which an integrated circuit package having a housing (30) with a base and a cover (38) is located; a load bar (21b) associated with a spring (21), wherein said load bar provides a specific weight to said fixture base in order to assist in maintaining said integrated circuit package cover and said housing parallel to one another upon said fixture base (11); and an adjustable load foot(25) located above said fixture base, wherein said adjustable load foot applies a pre-determined load with a specific weight to said integrated circuit package in order to maintain said integrated circuit package cover and said housing securely to be welded together; further comprising a plurality of guideposts (23, 24) integrated with said load

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bar in order to assist in maintaining said integrated circuit package cover and said integrated circuit housing parallel to one another upon fixture base. (column 1, line 60 – column 3 line 67 and figures 1, 2, 3 and 6).

Regarding claims 5-9, attention is drawn to the fact that the features disclosed in the welding fixture of Ziolkowski et al. are inherently suitable for holding an object to be welded by stitch, tack or laser welding.

6. Claims 3 and 4 are drawn to a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Regarding the [object to be welded (SAW), sensor, these limitations are directed to a manner of operating the apparatus to make a sensor]. The examiner notes that neither the manner of operating a disclosed device nor material/article worked upon further limit an apparatus claim. Said limitations do not differentiate apparatus claims from the prior art. See MPEP 2114 and 2115. Further, the examiner notes that intended use limitations, such as ["making a sensor; wherein said object to be welded comprises a sensor device"] do not have patentable weight in an apparatus claim. See *Ex parte Thibault*, 164 USPQ 666, 667 (Bd. App. 1969) that states "Expressions relating the apparatus to contents thereof and to an intended operation are of no significance in determining patentability of the apparatus claim."

Allowable Subject Matter

7. Claims 13- 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter. The instant application is deemed to be a nonobvious improvement over Ziolkowski et al. The improvement comprises: in dependent method claims (13- 18); wherein said sensor package comprises a SAW sensor having a cover and a base, said SAW sensor comprises at least one quartz component.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cox et al. (US 6189210), Whiteman (US 5362036), Crew et al. (US5295700), Lawrence et al. (US 5244195), Ushiki et al. (US 5181646), Kwan et al. (4804130), Wagner (US 4216401), Armstrong et al. (US 6793011), Vongfuangfoo et al. (US 5598775) and Shubinsky et al. (US 2005/0145330), are also cited on PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Aboagye whose telephone number is 571-272-8165. The examiner can normally be reached on Mon - Fri 8:30am - 5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dunn can be reached on 571-272-1171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Michael Aboagye
Assistant Examiner
Art Unit 1725

11/23/2005

KEVIN KERNS
PRIMARY EXAMINER

Kevin Kerns 11/23/05